

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2687 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Kumabakonam Ltd.,
New Junction Road, Kumbakonam. ... Appellant/ Respondent

Versus

Kuppusamy ... Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 09.03.2016 made in M.C.O.P.No.38/2012 on the file of the Motor Accidents Claims Tribunal, (Sub Judge) Mannarkudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Managing Director, Tamil Nadu State Transport Corporation has brought this appeal challenging the impugned award dated 09.03.2016 made in M.C.O.P.No.38/2012 on the file of the Motor Accidents Claims Tribunal, Mannarkudi.

2.According to the claimant, on 17-06-2010 at about 2.50 p.m., when the claimant was walking in the Mannargudi Bus stand along with his relative one Ganesan from West to East direction, a bus bearing Registration No.TN-49-N-1235 came from the opposite direction in a rash and negligent manner and dashed against the claimant. Due to the accident, the claimant sustained grievous injuries. Immediately after the accident, the claimant was taken to the Government Hospital, Mannargudi and after taking first aid treatment, he was then referred to Thanjavur Medical College Hospital. According to the claimant, the accident had happened due to the rash and negligent driving of the driver of the said bus.

3.Learned counsel for the Transport Corporation/appellant would submit that the amount awarded by the Tribunal with regard to quantum of compensation is exorbitant and unreasonable. Adding further, he would submit that when it has been proved that the age of the claimant was 62 years at the time of accident, the proper multiplier for the age between 61 and 65 would be 7, as per the ratio laid down by the Hon'ble Apex Court in the case of Sarla Verma, but the Tribunal instead of applying 7, has fixed the multiplier 9, which is un-warranted. Therefore, the same needs interference.

4.This Court hardly finds any merit in his contentions. When the injured/claimant was walking on the road along with his relative, hit by the bus, belonging to the appellant. Due to the accident, the poor pedestrian, who was walking on the left extreme side of the road, sustained grievous injuries in his backside of the head, left elbow and fourth finger of the right hand was also amputated. Immediately, he was taken to Government Hospital, Mannargudi and after taking first aid treatment, he was then referred to Thanjavur Medical College Hospital. Subsequently, a complaint was lodged before the Mannargudi Police Station and a case was registered as against the driver of the bus in Crime No.442/2010 under Sections 279 and 337 IPC alleging that the driver of the bus was solely responsible for the cause of accident.

5.It is seen from the claim petition that the claimant was working as Sweeper at Dharani Matriculation School, Mannargudi and was earning a sum of Rs.7,000/- as monthly income and he was unable to do his essential work and walk without the assistants and often he was getting giddiness. It is further seen that the claimant was admitted as in-patient on 17.06.2010 and discharged from the hospital only on 31.7.2010, which shows that for a period of nearly 44 days he was taking treatment. The Doctor, who was examined as P.W.2, has spoken about the surgery underwent by the injured/claimant. Subsequent to the amputation, the fourth finger was not properly united. On this basis, the Doctor certified 40% partial and permanent disability.

6.When the injured was serving as a Sweeper at Dharani Matriculation School, Mannargudi and obviously he has lost his fourth finger and there was a mal-union in his right hand and due to the same, he was not in a position to continue his work as a Sweeper, the Tribunal has rightly accepted the evidence of injured/claimant, which was supported by the Doctor's evidence, who was also examined as P.W.2 and has rightly accepted the discharge certificate issued by the said Doctor. Accordingly, it has resorted to the multiplier method. Before applying the multiplier method, when the injured/ claimant has pleaded that his monthly income was Rs.7,000/-, it has fixed only Rs.5,000/-. As he was aged about 60 years, it has rightly applied the multiplier '9' and it has arrived the loss of income as follows:
$$5000 \times 12 \times 9 \times 40\% = 2,16,000/-.$$

7.Therefore, when there is a clear and categorical finding recorded by the Tribunal considering the functional disability sustained by the injured and due to the same, he was not able to do his work as he did before the accident, this Court is not inclined to interfere with the quantum of compensation fixed by the Tribunal. Accordingly, the appeal fails and the same is dismissed. Consequently, connected C.M.P. is also dismissed.

8. Since the learned counsel for the appellant/Insurance Company submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order, failing which, the interest payable would become 10% for the period of delay. On such deposit, it is for the claimant to move a petition before the Tribunal for withdrawing the said amount.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accidents Claims Tribunal,
(Sub Judge) Mannarkudi.

2.The Section Officer,
V.R.Section,
High Court, Madras.

1 cc to M/s.D. Venkatachalam, Advocate, Sr. 70145

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